

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DAVID C. HENDERSON, individually and on)
behalf of others similarly situated,)
Plaintiff,) Civil Action No. 3:12-cv-00322
vs.) Judge Jane Boyle
REMINGTON ARMS COMPANY, LLC.,)
CASCADE CARTRIDGE, INC. A/K/A CCI)
AMMUNITION)
Defendants.)

**DEFENDANT REMINGTON ARMS COMPANY'S MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**

Defendant, REMINGTON ARMS COMPANY, LLC (“Remington”) respectfully moves this Court pursuant to Fed. R. Civ. P. 12(b)(6) for an order dismissing the Complaint of the Plaintiff, David C. Henderson. For the following reasons, Plaintiff has failed to state a claim upon which relief can be granted:

1. The Complaint fails to state a claim under the Magnuson-Moss Warranty Act (“MMWA”) because (a) it is time-barred by the terms of the warranty and the statute of limitations, (b) the alleged warranty underlying his MMWA claim did not constitute part of the basis of the bargain between the parties, as required by the MMWA, and (c) the Complaint fails to state a claim for breach of implied warranty under the MMWA because Plaintiff has not adequately alleged that the rifle was unfit for its ordinary purpose or for a particular purpose.

2. The Complaint fails to state a claim for unjust enrichment because (a) it is time-barred by the statute of limitations, (b) an express contract exists, and (c) Plaintiff did not confer a direct benefit onto Defendant.

The Memorandum in Support and Appendix filed herewith set forth the basis for this Motion and are incorporated herein by reference.

DATED: April 9, 2012

Respectfully submitted,

s/ James D. Jordan _____

James D. Jordan

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CERTIFICATE OF SERVICE

On April 9, 2012 I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal rule of Civil Procedure 5 (b)(2).

s/ James D. Jordan